

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, MAY 5, 1999
7:00 P.M.**

1. ROLL CALL

Present: Council Members – Hitchcock, Mann, Nakanishi, Pennino and Land (Mayor)

Absent: Council Members - None

Also Present: City Manager Flynn, Deputy City Manager Keeter, Public Works Director Prima, Community Development Director Bartlam, Police Chief Hansen, City Attorney Hays and City Clerk Reimche

2. INVOCATION

The invocation was given by Pastor Jim Robinette, M-2 Ministry – Calvary Bible Church.

3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Land.

4. AWARDS / PROCLAMATIONS / PRESENTATIONS

a) Police Chief Hansen presented the following Police Awards:

- **Officer of the Year** – Officer Rick Cromwell (accepting this award was Officer Cromwell's widow, Cindy Cromwell);
- **Employee of the Year** – Records Supervisor Laurelee Waddell;
- **Volunteer of the Year** – Partner Charlene Barton;
- **Meritorious Service Award** – Police Officer Bobby Amin;
- **Chief of Police Service Awards** – Captain Jerry Adams, Sergeant Gary Benincasa, and Police Officer Steve Carillo;
- **Life Saving Citation** – Sergeant Conrad Hunziker; and
- **Citizen Service Awards** – Citizen Paula Shaver (Ms. Shaver was not present at the meeting to accept her award).

b) Mayor Land presented a proclamation to Amanda Solway with the U.S. Post Office proclaiming Saturday, May 8, 1999 as "National Letter Carrier Food Drive Day" in the City of Lodi.

c) Mayor Land presented a proclamation to Public Works Director Prima and Street Superintendent Bradley proclaiming the week of May 16 – 22, 1999 as "National Public Works Week" in the City of Lodi.

d) Theo Vandenberg with the Lodi Arts Commission updated the City Council on the many activities of the Lodi Arts Commission.

5. COMMENTS BY THE PUBLIC ON CONSENT CALENDAR ITEMS

a) Georgianna Reichelt, 3605 East Louie Avenue, Manteca, spoke regarding agenda item #E-7 entitled, "Ratify the 1999/2000 Annual Financial Plan for the San Joaquin County Council of Governments (COG)". Ms. Reichelt questioned if this item had anything to do with having COG "spring" for the parking lot. Council Member Pennino responded that it did not and further answered other questions regarding the matter as were posed by Ms. Reichelt.

- b) Helen Stevens, 616 West Turner Road, Lodi, spoke regarding agenda item #E-10 entitled, "Set Public Hearing for June 2, 1999 to consider requiring installation of sidewalk along West Turner Road". Ms. Stevens indicated that she has lived at this location for 29 years without sidewalks and has never had any complaints. She asked that the setting of this Public Hearing be removed from the agenda.
- c) Katy Marconi, 620 West Turner Road, Lodi, also commented on agenda item #E-10. She requested that her property be removed from the list of those properties under consideration in this matter.

Both Ms. Stevens and Ms. Marconi were advised that the action before the City Council this evening was to set the matter for Public Hearing on June 2, 1999, which would be the appropriate time to hear all testimony regarding the subject.

6. CONSENT CALENDAR

In accordance with report and recommendation of the City Manager, Council, on motion of Council Member Pennino, Hitchcock second, unanimously approved the following items hereinafter set forth:

- a) Claims were approved in the amount of \$2,457,819.35.
 - b) The minutes of April 14, 1999 (Special Meeting), April 15, 1999 (Special Meeting) and April 21, 1999 (Regular Meeting) were approved as written.
 - c) Received report of the sale of surplus vehicles.
 - d) Adopted Resolution No. 99-69 accepting the public improvements for Phase 1 of the Millsbridge Subdivision.
 - e) Accepted the improvements under the "Century Boulevard and Rivergate Drive Electric Utility Substructures" contract and directed the City Engineer to file a Notice of Completion with the County Recorder's Office.
 - f) Adopted Resolution No. 99-70 approving 106 feet of no parking on Ham Lane north of Turner Road, in front of Lakewood Middle School.
 - g) Adopted Resolution No. 99-71 ratifying the 1999/2000 Annual Financial Plan for the San Joaquin County Council of Governments (COG).
 - h) Approved the agreement for professional services for Carl A. Worthington and Associates to carry out a scope of work that includes the preparation of thematic urban design plans for the joint Cinema/Parking/Retail/Streetscape project.
 - i) Adopted Resolution No. 99-72 granting permission to destroy certain records in excess of two years of age as listed below:
 - Closed litigation files in excess of two or more years.
 - Miscellaneous memoranda and correspondence 1991-1995.
 - Miscellaneous claim files for years 1993-1995.
 - j) Set Public Hearing for June 2, 1999 to consider requiring installation of sidewalk along West Turner Road.
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7. PUBLIC HEARINGS

None.

8. COMMUNICATIONS (CITY CLERK)

- a) The following report was presented to the City Council:

1. Planning Commission report of April 14, 1999

- b) The City Council, on motion of Council Member Hitchcock, Nakanishi second, unanimously directed the City Clerk to post for the following vacancies:

Lodi Arts Commission

Marlo Kerner Term to expire July 1, 2000

Site Plan and Architectural Review Committee (SPARC)

Virginia Snyder Term to expire January 1, 2000

- c) The City Council, on motion of Council Member Pennino, Hitchcock second, unanimously directed the City Clerk to post for the following expiring terms on various boards and commissions:

Advisory Board 49-99

Vacancy Term expires July 1, 1999

Library Board

Don Shephard Term expires June 30, 1999

Lodi Arts Commission

Beth Handel Term expires July 1, 1999

Theo Vandenberg Term expires July 1, 1999

Eleanor Kundert Term expires July 1, 1999

Janet Dillon Term expires July 1, 1999

Greater Lodi Area Youth Commission

Adult Appointments

Ken Mullen Term expires August 30, 1999

Jeff Fleak Term expires August 30, 1999

Student Appointments

Charlie Tyler Term expires August 30, 1999

Julia Rough Term expires August 30, 1999

Summer Pennino Term expires August 30, 1999

Alisha Thawley Term expires August 30, 1999

Ashleigh Krueger Term expires August 30, 1999

Planning Commission

Dorean Rice Term expires June 30, 1999

Roger Stafford Term expires June 30, 1999

San Joaquin County Council of Governments (COG) Citizens' Advisory Committee

Richard Blackston Term expires June 30, 1999

- d) City Clerk Reimche informed the City Council that her office received a notice that the United States of America Federal Energy Regulatory Commission will hold a public meeting with Pacific Gas & Electric Company (PG&E) the applicant for the Mokelumne Hydroelectric Project No. 137, the U.S. Forest Service, and other interested parties to discuss alternatives for completing the process of this relicense.

9. REGULAR CALENDAR

- a) Agenda item #H-1 entitled, "Review of City Sidewalk Replacement Policies and Downtown Sidewalks".

Public Works Director Prima informed the Council that the City has received a request from a Downtown property owner to replace sidewalk along their frontage, which involves a set of basement access doors. This request was prompted by a City directive to the property owner to repair the sidewalk after the City received a hazardous-condition report. This request has raised a number of policy issues.

The City generally replaces public sidewalks under two circumstances. The first is when sidewalk is replaced as part of a capital improvement project. This can range in extent from a major street-widening project to something as simple as installing a ramp at an intersection. The second is when replacements are done as part of our street and tree maintenance program. This maintenance work is guided by the policy statement. This policy is the City's implementation of California State Streets and Highways Code Section 5610, which places sidewalk maintenance responsibility on the property owner, but relieves the property owner of this responsibility under certain circumstances.

When the City receives a sidewalk liability claim or is put on notice of a hazardous condition, we check the location versus the policy to see who should pay for any necessary repairs. The work done in the Downtown Revitalization Project fell under the first circumstance. The project included replacing the entire sidewalk on five blocks of School Street, and involved eleven sets of basement doors. The City received approval from eight property owners to abandon those doors. The remaining three were replaced as part of the project. The cost to abandon the eight was about \$22,000. The cost to replace three sets of doors was \$18,000. This cost was included in the overall project, which was funded by the City and the property owners; it was not charged to the specific property owners. (One location also involved dealing with a large portion of a basement at the Hotel Lodi, which extended out from the building. The property owner was directed to modify the basement to remove that portion at his expense and the City replaced two sets of doors at the Hotel.)

As we look toward future capital improvement projects in the Downtown area, we have identified thirteen additional basement doors and at least one location where a basement extends under the sidewalk with no access door. (We were alerted to this location when the tenant complained about leakage from the street into the basement.) There may well be other locations where this encroachment occurs. Based on the Downtown project prices, replacing the doors alone would cost roughly \$78,000. Staff, on one hand, feels the taxpayers should not subsidize an individual circumstance such as this. On the other hand, the Downtown Revitalization effort is a community project and financial assistance in improving sidewalks, including these doors, would be consistent with the Revitalization Program.

In light of the above, staff has formulated a policy with the following elements for Council consideration:

- New basement encroachments into the sidewalk area are prohibited.
- Existing basement encroachments shall either be abandoned by the property owner or be covered by an encroachment permit, issued administratively, in which the property owner assumes maintenance responsibilities and provides standard insurance coverage and certificates.

- When the City initiates replacement of adjacent curb, gutter and/or sidewalk as part of a capital improvement project, or under the maintenance conditions described in the City's sidewalk repair policy, the City shall bear the cost of resetting serviceable basement access doors. The property owner shall provide a new door set, if necessary, and a structural "roof" for additional basement encroachments on which the City can install sidewalk. As an option, if the property owner elects to have a basement access/encroachment abandoned, the City will remove the access, backfill, and replace sidewalk if the property owner provides the necessary wall at the building foundation.
- When the City initiates replacement due to conditions which are the property owner's responsibility under the maintenance conditions described in the City's sidewalk repair policy, the property owner shall bear all costs for repairs except if the property owner abandons the basement access, then the City will participate as in 3) above.

In addition, the Council may wish to grant some special consideration for properties on Pine and Oak streets between Church and Sacramento streets. These properties were included in Zone A of the Downtown Assessment District but these streets were not improved to the same level of detail as School Street. To accommodate this, staff suggested the following additional policy statement:

- The City Manager may authorize a one-time replacement of basement access doors, at City expense, in conjunction with circumstances described above, provided the property owner complies with Section 2 above.

Following discussion, the City Council, on motion of Council Member Nakanishi, Hitchcock second, unanimously included the following elements into the City Sidewalk Replacement Policy and Downtown sidewalks:

- New basement encroachments into the sidewalk area are prohibited.
- Existing basement encroachments shall either be abandoned by the property owner or be covered by an encroachment permit, issued administratively, in which the property owner assumes maintenance responsibilities and provides standard insurance coverage and certificates.
- When the City initiates replacement of adjacent curb, gutter and/or sidewalk as part of a capital improvement project, or under the maintenance conditions described in the City's sidewalk repair policy, the City shall bear the cost of resetting serviceable basement access doors. The property owner shall provide a new door set, if necessary, and a structural "roof" for additional basement encroachments on which the City can install sidewalk. As an option, if the property owner elects to have a basement access/encroachment abandoned, the City will remove the access, backfill, and replace sidewalk and pay for the necessary wall at the building foundation.
- When the City initiates replacement due to conditions which are the property owner's responsibility under the maintenance conditions described in the City's sidewalk repair policy, the property owner shall bear all costs for repairs except if the property owner abandons the basement access, then the City will participate as in 3) above.
- The City Manager may authorize a one-time replacement of basement access doors, at City expense, in conjunction with circumstances described above within Zone A-1 of the Lodi Central City Revitalization Assessment District, 95-1, provided the property owner complies with Section 2 above.

10. ORDINANCES

- a) Ordinance No. 1669 entitled, "An Ordinance Of The Lodi City Council Repealing And Reenacting Lodi Municipal Code Title 15, Chapter 15.56 Relating To Alarm Systems And Permits" having been introduced at a regular meeting of the Lodi City Council held April 21, 1999 was brought up for passage on motion of Council Member Pennino, Hitchcock second. Second reading of the ordinance was omitted after reading by title, and the ordinance was then adopted and ordered to print by the following vote:

Ayes: Council Members – Hitchcock, Mann, Nakanishi, Pennino and Land (Mayor)
Noes: Council Members – None
Absent: Council Members – None

- b) Ordinance No. 1670 entitled, "An Ordinance Of The City Council Of The City Of Lodi Repealing And Reenacting Chapters 10.40 'Regulations For Bicycles' And 10.42 'Skateboards', And Adding Chapter 10.43 'Regulations For Roller Skating' To The Lodi Municipal Code" having been introduced at a regular meeting of the Lodi City Council held April 21, 1999 was brought up for passage on motion of Council Member Pennino, Hitchcock second.

City Attorney Hays responded to questions as were posed by members of the City Council.

Second reading of the ordinance was omitted after reading by title, and the ordinance was then adopted and ordered to print by the following vote:

Ayes: Council Members – Hitchcock, Mann, Nakanishi and Pennino
Noes: Council Members – Land (Mayor)
Absent: Council Members – None

- c) Ordinance No.1671 entitled, "An Ordinance Of The City Council Of The City Of Lodi Amending Chapter 5.12 Of The Lodi Municipal Code By Repealing And Reenacting Section 5.12.070 'Work Permit – Required' And Section 5.12.140 (C), (E), And (G) And Adding Section 5.12.140 (R) 'Rules And Regulations' Relating To Cardrooms" having been introduced at a regular meeting of the Lodi City Council held April 21, 1999 was brought up for passage on motion of Council Member Hitchcock, Mann second. Second reading of the ordinance was omitted after reading by title, and the ordinance was then adopted and ordered to print by the following vote:

Ayes: Council Members – Hitchcock, Mann, Nakanishi, Pennino and Land (Mayor)
Noes: Council Members – None
Absent: Council Members – None

11. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- a) Kenneth Owen, Christian Community Concerns, Lodi, announced that May 6, 1999 will be the 48th Annual Day of Prayer. A service will be held at the Civic Center Mall at noon, and community leaders and citizens of this community are invited to attend. Mr. Owen further indicated that he felt this Annual Day of Prayer was very appropriate with all that is going on in our universe.
- b) Connie Cochran, Director External Affairs with Pacific Bell, announced that Kent Burnes will be conducting a workshop in Lodi on Wednesday, May 19, 1999 entitled, "Outrageous Customer Service!". This workshop is being sponsored by the City of Lodi, Lodi District Chamber of Commerce, and the San Joaquin Delta College Small Business Development Center. Ms. Cochran encouraged members of the community to attend.

Ms. Cochran also announced that the Pacific Bell Foundation is presenting the 1999 Northern and Central California Community Enrichment Program which is a competitive grant program offered for funding in the areas of: education, health care, economic development and community access to the information highway. Grants up to \$25,000 will be awarded. All applications must be post marked no later than May 31, 1999.

- c) Mr. Pat Stocker, P. O. Box 673, Victor, addressed the City Council regarding a problem that had been encountered with the family-owned fruit stand located on Kettleman Lane just south of the new Beckman Road. Mr. Stocker stated that this is a family-operated business, and, because of the barricades, the access to their business is prevented at a critical time in their operations. Mr. Stocker asked if the City could look into a solution to this dilemma. The City Manager was asked to look into the matter and find a remedy to the problem.
- d) Michelle R. Bernard, Espresso Express, Lodi, addressed the City Council indicating her interest in initiating an exterior espresso coffee cart operation in the area of Oak and School Streets. Following discussion, with questions being directed to Ms. Bernard and to staff, it was suggested that Ms. Bernard meet with Economic Development Coordinator Goehring regarding this request.
- e) Georgianna Reichelt, with the Land Utilization Alliance, 3605 East Louie Avenue, Manteca, addressed the City Council voicing her opposition to the ProStyle Sports Complex proposal. Ms. Reichelt asked that she be advised whenever this matter appears on the City Council agenda for consideration.
- f) Mr. Wilbur Ruhl, 765 Almond Drive, Lodi, also expressed his concern regarding the ProStyle Sports Complex proposal and questioned the legality of this matter being discussed in Closed Session. City Attorney Hays responded to questions regarding this matter.
- g) Virginia Snyder, 303 Louie Avenue, Lodi, announced that Lincoln School has been selected as a Community Resource Center. She indicated that the Center will focus on the health, safety, and education of children and their families. This will include job training, child care, immunization programs, preventive medicine, child abuse prevention, juvenile programs, and education opportunities ranging from parenting to ESL classes.

12. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- a) Council Member Hitchcock announced that this week is "Staff Appreciation Week" for schools and invited the community to go to the various schools and thank these very important and special people in our education system.
- b) Mayor Land reminded the community that this Sunday, May 9, 1999, is Mother's Day and encouraged everyone to remember their moms on this very special day.

Mayor Land also announced that from 1960 through 1976 the Methodist Church in Lodi held an annual Ice Cream Social. Every child involved in the event benefited as the funds derived from the event were used to send these children to camp. They will be holding the first reunion on July 3 – 4, 1999. The Mayor reported that people interested in attending may call 365-9573.

Mayor Land stated that there are a lot of things going on in Lodi and outlined numerous events listed in the Lodi Community Activity Guide. The Mayor urged citizens of this community to take advantage of participating in these activities.

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Mayor Land also announced that this Saturday, May 8, 1999, Lodi Memorial Hospital is sponsoring "Walk For The Health Of It" starting at 9:00 a.m. Proceeds from this event are used to purchase equipment for the hospital.

- c) City Manager Flynn announced that the Stockton Ports will be playing the San Jose Giants in Lodi on May 16, 1999. Also, the Sacramento Steelheads will be playing on May 17th and 18th. Both teams will be playing at Zupo Field. Mayor Land encouraged community attendance at both upcoming events.

City Manager Flynn announced that he will be out of town May 10 – 20, 1999 to attend his son's graduation from college.

City Manager Flynn announced that a ceremony was held in Stockton today honoring fallen Lodi Police Officer Rick Cromwell. Officer Cromwell's name was added to the granite memorial wall standing outside the Stockton Police Department, which now memorializes a total of 14 fallen San Joaquin County law enforcement officers.

It was further announced that the Lodi Police Honor Guard is scheduled to be in Sacramento on Friday at the State Capitol to add Officer Cromwell's name to the Peace Officer's Memorial on the grounds of Capitol Park. Further Chief Hansen and the Honor Guard will be leaving for Washington D.C. on May 12th for the May 14th ceremony where Officer Cromwell's name will be added to the Peace Officer's Memorial Wall in our nation's capital.

- d) Mayor Land announced to his fellow Council Members that since October 1998 the City Council has had a total of 32 meetings (Regular and Special Meetings and Closed Sessions). In 1997 there were only 31 meetings held during the entire year. Mayor Land expressed his appreciation for all of the Council Members' efforts and hard work.

13. CLOSED SESSION

Mayor Land adjourned the City Council meeting to a Closed Session to discuss the following matters:

- a) Actual litigation: Government Code §54956.9(a). One case. Fireman's Fund Insurance Company v. City of Lodi, et al., United States District Court, Eastern District of California Case No. CIV-S-98-1489 LKK PAN **This item was not discussed**
- b) Prospective lease of City property (400± acres adjacent to White Slough Water Pollution Control Facility); the negotiating parties are ProStyle Sports and the City of Lodi. Price and terms are under negotiation

14. RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

The City Council meeting reconvened at approximately 10:15 p.m., and Mayor Land disclosed that the City Council directed staff to undertake lease negotiations with ProStyle Sports.

15. ADJOURNMENT

There being no further business to come before the City Council, Mayor Land adjourned the meeting at approximately 10:15 p.m.

ATTEST:

Alice M. Reimche
City Clerk